

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6033 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Nos. 1 to 5 No.

RAHEMTULLA HANIFBHAI RAJPURA

Versus

CHAIRMAN

Appearance:

MR JV JAPEE for Petitioner
MR.I.M.PANDYA FOR MR YS LAKHANI for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 03/02/97

ORAL JUDGEMENT

Rule. Mr.I.M.Pandya for Mr.Y.S.Lakhani waives service of the Rule on behalf of the respondents.

There is no dispute that Mohmed Hanif who was working as driver in Gujarat State Road Transport Corporation was declared medically unfit. An application was moved for giving compassionate appointment to his elder son Mustafa because Mohmed Hanif had been rendered

medically unfit while discharging the duties. The appointment on compassionate ground was offered to Mohmed Hanif's elder son namely Mustafa but his relations with his father were strained and therefore he did not avail this appointment and he also started living separately i.e. he was no more available to support his father. Mohmed Hanif therefore moved revised application on 10.4.1990 for giving appointment to his younger son i.e. present petitioner Rahemtulla. On 17.1.1997 when the matter came up before this Court after noticing the facts as aforesaid, it was observed that in the light of the subsequent developments the respondents may consider this application dated 10.4.1990 for the younger son instead of the elder son and time was sought by Mr.Pandya to seek instructions. Mr.Pandya has submitted that in view of the contents of the affidavit-in-reply the respondents are not in a position to offer the appointment to the younger son i.e. the present petitioner because the appointment offered to the elder son earlier was not availed. I have considered the submissions of both the sides and I am of the opinion that in the facts of this case, this approach of the respondents cannot be said to be correct. The appointment on compassionate grounds are meant in such cases for giving support to a person who is medically incapacitated. Therefore, if Mohmed Hanif who had been rendered medically unfit has revised the application for his younger son from whom he seeks support, it does not appear to be reasonable to deny the appointment to the younger son merely because the appointment offered to the elder son had not been availed.

It is therefore directed that the respondents may deal with the revised application dated 10.4.1990 for compassionate appointment and the appointment on compassionate ground shall not be denied to the present petitioner Rahemtulla only on the ground that such appointment earlier offered to his elder brother Mustafa had not been availed by him. The decision on the application dated 10.4.1990 shall be taken in accordance with law by the respondents within a period one month from the date certified copy of this order is served upon the respondents and such orders shall be conveyed to the present petitioner. This Special Civil Application is accordingly allowed. Rule is made absolute. No order as to costs.
